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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,423	02/10/2004	Alexander B.H. Bakker	DX0763XB2	9728

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DNAX RESEARCH INC.
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO, CA 94304

EXAMINER

O HARA, EILEEN B

ART UNIT	PAPER NUMBER
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1646

MAIL DATE	DELIVERY MODE
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07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/775,423	Applicant(s) BAKKER ET AL.	
	Examiner Eileen B. O'Hara	Art Unit 1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-44 is/are allowed.
- 6) ☒ Claim(s) 21, 22, 24-29 and 31-34 is/are rejected.
- 7) ☒ Claim(s) 23 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 21-40 are pending in the instant application. Claims 1-20 have been canceled and claims 21-40 have been added as requested by Applicant in the Paper filed 26 April, 2007.

The Examiner indicated in the previous office action that claims 1-20 had previously been canceled and that claims 21-30 were pending, but this was a mistake, and claims 1-20 had not been previously canceled, as Applicants have pointed out in the response.

Withdrawn Objections and Rejections

2. Any objection or rejection of record which is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

Amendments to the Specification

3. Applicants amendments to the specification are noted. Applicants are advised that the replacement paragraphs beginning on page 3, line 17 recite 30 \square M on lines 5, 10 and 14, which should be 30 μ M. Appropriate correction is required.

Maintained Rejections

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 4.1 New claims 21, 22, 24-29 and 31-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, for reasons of record in the previous office action.

4.2 New claims 21, 22, 24-29 and 31-34 are also rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for making and using a polypeptide comprising the amino acid sequence of SEQ ID NO: 12 or 14 or comprising the extracellular domain of the amino acid sequence of SEQ ID NO: 12 or 14, does not reasonably provide enablement for making and using a polypeptide having at least 90% or 95% identity to the polypeptide of SEQ ID NO: 12 or 14 or a polypeptide having at least 90% or 95% identity to the extracellular domain of the amino acid sequence of SEQ ID NO: 12 or 14, for reasons of record in the previous office action. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Applicants in the response submit that new claims do not recite the language of the previous claims, the recitation of polypeptides having identity over at least about 12 amino acids of SEQ ID NO: 12 or 14, and therefore comply with the written description requirement and are fully enabled. However, the new claim language, the recitation of a polypeptide having at least 90% or 95% identity to the polypeptide of SEQ ID NO: 12 or 14 or a polypeptide having at least 90% or 95% identity to the extracellular domain of the amino acid sequence of SEQ ID NO: 12 or 14, are rejected under enablement and written description for reasons of record in the previous office action.

The rejection would be obviated by the limitation in the claims that the polypeptide associates with DAP12.

Conclusion

- 5.1 Claims 35-44 are allowed.
- 5.2 Claims 23 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- 5.3 Claims 21, 22, 24-29 and 31-34 are rejected.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen B. O'Hara, whose telephone number is (571) 272-0878. The examiner can normally be reached on Monday through Friday from 10:00 AM to 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nichol can be reached at (571) 272-0835.


The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Eileen B. O'Hara, Ph.D.

Patent Examiner


EILEEN B. O'HARA
PRIMARY EXAMINER